Essay on the Common Law of Ruanda

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Preface

101 563 Beyond the eastern shore of Lake Kivu extends a country of high hills called Ruanda. Nestling in banana groves, innumerable huts cling to the hillside, their smoke rising to the sky, and on the summits the brisk wind sways the pink grasses of the pastures where long-horned cattle graze. The exceptionally dense population con- [161] sists of about 3,000,000 Bahutu of Bantu origin who are dominated by some tens of thousands of Batutsi, Hamitic shepherds who have probably come down from the Ethiopian plateaus. Finally, here and there, Batwa pygmoids, potters and hunters, live apart from the other natives who despise them.

183 671 Europeans who first studied the customs of the country discovered to their surprise that they showed a number of points in common with our feudalism. The tenure of land and of cattle as well as the dependence of persons are under a [4] strict regulation which the [643] ruler of Ruanda has the absolute power to modify but which has, in fact, remained unchanged throughout the ages.

177 183 Our occupation has obviously had the effect of modifying the customs in many ways. For example, we could not approve of the brutal evictions and attempts on life and liberty made in the name of the right of the strongest. Evangelization has also introduced into the heart of the native society notions of justice and gentleness which are very different from the natives' original conceptions. However, despite 177 the efforts of our civil servants and our missionaries to attack what is 183 most to be condemned in it, native customs still largely holds its 563 sway due to the influence of the great Batutsi chiefs, who are eager to maintain their authority intact, and also due to that of the sorcerers, toothsayers, rain makers, and many others, who attempt to maintain the traditional law by playing on the credulity and superstitious mind of the Banyarwanda [Banyaruanda] and thus protect their prestige and their revenues. In addition, while realizing the protection we give them in repressing arbitrary actions, the Bahutu submit to the changes we

133 western part is the tail end of a range of Archeozoic folded mountains; it consists of crystalline slate with many granite intrusions and outcrops. The boundary between the two formations is a sharp threshold or drop in the terrain running north to south approximately at the longitude of the Mugera missionary station. Toward the east the slate-quartzite plateau also slopes down in an extended gradient at high altitude toward the gneiss and granite plateau of Unjamwesi which I consider an eroded escarpment. A huge tectonic fault scarp is found in the steep western slope of the highland toward the central African graben and toward Lake Tanganyika. Smaller fault depressions in several places extend over the country of Urundi; in fact, the entire interlacustrine region is rich in such tectonic faults. (Cf. the map on opposite page.)

[648] [4] Only a few times have determined enemies invaded Urundi across the high ridges and escarpments in the west and southeast, but this has happened more often from the flatter, more open fronts in the north and northeast. In the north are [101] the proud, warlike neighbors, the Ruanda, in the northeast the restless tribes of the Lake Victoria region: the Bassuwi, Basindja [Linza], Wassumbwa [Sumbwa], and others.

The slate-quartzite plateau of eastern Urundi has been leveled by erosion from meteorological forces over many thousands of years into a large peneplain with long, broad, low ridges (Plate 1a), while in the west the older mountain periphery still rises to a considerable altitude although it has also been worn down and rounded for the most part. The plateau region has an average altitude of 1,600-1,800 meters; the peripheral mountains rise to as high as 3,000 meters. More recent block movements renewed again the process of erosion which had been slowing down, so that in many regions the streams have carved recent, deep valleys into the plateau and the mountain ranges which then divided the region into a great number of large blocks and bastions. However, in still more recent times this process of erosion was again considerably slowed down by other developments. This is apparent from the fact that at present there are rapid streams only in the mountains of the west (Plate 1b), while in the plateau region of the east almost

Chapter 6

Population Elements

563 The population of Ruanda is made up of three elements which anthropologically and culturally are very different, although they speak the same language.

The ruling group are the Batutsi [Tussi] herdsman who are anthropologically quite close to the Bahima [Hima] of Mpororo. There is a great gap between them and their subjects.

The Bahutu [Hutu] farmers make up the bulk of the population.

The Batwa [Twa], an outcast hunting tribe who also engage in rainmaking and pottery, form the third element.

197 Batutsi. The language of the Batutsi is identical with that of their Bahutu subjects except for certain phonetic dialect differences as yet unexplained by scholars. Nevertheless, the Batutsi, as well as the Bahima, must be linked with the Nilotic-Hamitic pastoral tribes on the eastern edge of the Nile Basin as well as those on the bank of the Nile to the south of the great Nile swamps. The Batutsi form the main part of an older migrating group which was wedged in between Lake Victoria and the forests of the Congo Basin. The Bari and their relatives probably broke out later in a northwesterly direction towards the Uele Basin. The Massai [Masai] group apparently poured into the regions to the east of Lake Victoria.

197 If we consider the word "Hamite" as a purely linguistic designation, the Batutsi are not Hamites at all, and even less Semites, as they are called by Rehse (1) and Kandt (2). They simply belong

[113]

1. Rehse, H., Kiziba, Land und Leute [Kiziba, Land and People] (Stuttgart, 1900), p. 110.

2. Kandt, R., Caput Nili [The Head of the Nile] (Berlin, 1904), p. 339.

the interlacustrine group of the Bantu language family.

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on German East Africa. Mitteilunge aus den Deutschen Schutzgebieten 1911, p. 348.

In the northwestern part of the above-mentioned axis the Batutsi are less numerous. Only in Bwischascha and above all in the district of Lubengera do they appear in larger numbers. (3)

3. Kandt, R., Caput Nili (Berlin), p. 505.

The Batutsi of Bugoye settled there only a few generations ago. They came there from Mukinjaga. The few Batutsi in Mulera came there a short time ago from Nduga.

101 167 The Batutsi have also migrated to the west across the eastern edge of the graben [Rift Valley]. Dr. Kandt (4) says the fol-

4. Ibid., p. 456.

lowing about the Batutsi in Kishari:

"Here (Tshove, Kishari) many Watussi visited us, simple, friendly people but less handsome and aristocratic than those of Urundi and Ruanda; they have to work. Here they are not the rulers of the country, but cattle breeders living in villages isolated from the original inhabitants who are agriculturalists. (It is indeed strange how sharp a boundary the Ruzizi River and Lake Kivu form in this respect: to the east whole groups of Watussi live as kings and chiefs of subject peoples; to the west they appear sporadically or, as in Kishari, in larger numbers, but in neither case as rulers.)... Later I heard that Kishari is the refuge for all Watussi who for some reason have had to flee from their homeland." [124]

241 558 Despite the fact that conditions are very favorable for agriculture, the Batutsi have remained herdsmen, and only seldom have poverty-stricken Batutsi taken up agriculture. This happened to a family of Bagwabiro in Bugoye. Those Batutsi who till the

563 entirely different. In fact, with a little practice, one can recog-
191 nize members of the herdsman aristocracy by their pronunciation. This leads one to believe that the pronunciation of the Batutsi has special phonetic characteristics which may throw light on their former idiom.

563 Bahutu. The difference between the Batutsi and their subjects is so great that by comparison all local differences in individual provinces disappear, and the country seems a homogeneous whole. The herdsmen in the minority are the most conspicuous because of their privileged position. They are closely united and give the entire country its homogeneous stamp.

Numerically the Batwa are so weak and so little in evidence that even in the west where there are more of them, they are not conspicuous. Also local differences are not apparent. Consequently territorial differentiation in the country is manifest chiefly in the second population element, the Bahutu farmers.

563 They make up the conservative element which supports the
178 entire edifice of the state and ensures the stability of the established order. However, they have little capability for independently organizing large states. They do, however, maintain the established forms and even preserve the traditions of a vanquished political organization. Indeed, traces of former conditions are found where individual provinces have given up their independent political existence and have been absorbed into a highly centralized state.
[184] The Bahutu of the individual provinces show important differences
[101] and are themselves aware of these. Thus, when they speak of the Bagoye, Balera, and Banyanduga, they always mean the Bahutu. It is only in Kissaka that the term Banyakissaka stands for the inhabitants in general, and here memories of the state that united Bahutu and Batutsi are still very much alive. We must also not
●[101] overlook the fact that the Bahutu of Bgisha in the southern part of Rutshuru call themselves Barundu or Barondo. For this reason it seems to me that the names of the countries of Urundi and Ruanda should be associated with the Bahutu substratum living there.

563 [129] The Bahutu are essentially more heterogeneous than
142 the Batutsi, although throughout the country they have many common traits. They are strikingly different from the herdsman aristocracy

563 in their smaller stature, their squarer build, and their shorter legs.
142 The contrast is strongest in Mulera and Bugoye where the Bahutu gradually show transitions to the Bantu of the Congo forest. In central Ruanda the Bahutu show a not inconsiderable Batutsi influence. Here their features are more regular and more finely chiseled, their bodies not so stocky, and their heads longer. It is probable, [144] therefore, that the Muhutu owes the characteristics which distinguish him from the Bantu of the Congo forest chiefly to the "Hamitic" influence of the Batutsi. However, we must not lose sight of the possibility of a concurrent Nilotic influence which is so striking among the Massai and Bari.

167 Emigrants from the Congo state have played an important
101 role in the settlement of Mulera and Bugoye. Dr. Kandt (1) uses

1. Kandt, R., Caput Nili (Berlin, 1904), p. 290.

the name Bakiga (Wakiga) for the immigrants. He translates it as "inhabitant of Pori." My inquiry revealed that "Bakiga" is the general term for the inhabitants of mountains, in contrast to "Banyamuyaga," the inhabitants of plains. On his surveyor's
103 sketch of the map of Mpororo, Lieutenant Schwarz calls the country southwest of Buischingato (Luizigatu) "Rukiga." This was formerly called Ndorwa, since it is mountainous. The region southwest of Nyundo is also called Rukiga. Father P. Barthelèmy, who knows the country and is versed in the language, believes that the name of the Rugege Forest in the southeastern part of Kivu is derived from Rukiga.

167 The immigrants from the Congo are closely related to the
101 Banyaruanda. On the Belgian map (2) the inhabitants of the

[113] 2. Carte de l'État Indépendant du Congo [Map of the Independent Congo State]. Scale 1:100,000. Lith. Justus Perthes, Gotha, 1907.

western edge of the graben [Rift Valley] are designated simply as

167 Barundi [Rundi]. Bashi or Bahunde are the terms the Bagoye use
●101 in referring to the people from Bunyabungu, Itambi, Buyungu,
Kishari, Butundwe, and even Bgisha, with whom they can easily
[194] make themselves understood. The first designation supposedly
alludes to the sibilants which are so prominent in their dialect.
In their culture the Bashi also show many similarities with the
Congo Bantu. Thus, the anthropological and cultural transition
to the Forest Bantu takes place within the Kirundi language area.
The similarity of the Bahutu who were not influenced by the Batutsi
to the Forest Bantu argues in favor of the view that the population
of Ruanda is the result of a metamorphosis caused by contact with
the Batutsi.

563 [130] Batwa. The Batwa comprise the third element in the
144 population of Ruanda. They stand out because of their relatively
small stature. The contrast between them and the very tall Batutsi
is so striking that the altogether erroneous identification of Batwa
with Pygmies has gained credence even among such an outstanding
expert on the country as Dr. Kandt. (1) I have taken a great many

1. Kandt, R., Caput Nili (Berlin, 1904), p. 303.

measurements, and I am forced to conclude that this assumption is
not valid. I agree with Lieutenant Von Parisch (2) who found that

[113] 2. Parisch, F.R. Von, "Zwei Reisen durch Ruanda 1902 bis 1903 [Two Journeys Through Ruanda, 1902 to 1903]," Globus, Vol. 86 (1904), p. 76.

the Batwa were only slightly shorter than the Bahutu.
Prof. Hans Meyer (3) made the same observation. He says:

3. Travel Reports of Prof. Hans Meyer on German East Africa. Mitteilungen aus den Deutschen Schutzgebieten 1911, p. 349.

9: Maquet E-5 (1949-1951) 1961 FO42 Rundi FO42

The Twa are thought to have been the first inhabitants of Ruanda. This may be inferred from the general reconstruction of the vast human migrations that are supposed to have taken place in Africa in the remote past, and according to which Pygmies and Pygmoids would appear to be the most ancient inhabitants of that part of Africa. Whatever the validity of this hypothesis, the Twa, being hunters and collectors of fruits, seeds, and roots, did not greatly modify the natural vegetal cover of the country.

It was left to the Hutu hoe-cultivators to begin the transformation of the country. The time of their arrival, either after or contemporary with that of the Twa, is immaterial in this connexion. The important fact is that the Hutu had to begin the clearing of grasses, shrubs, and bushes and eventually the felling of forests to make their fields. The extent to which this process of deforestation had been carried out before the arrival of the Tutsi is difficult to assess. It is unlikely, however, that the Hutu were so numerous as to have to cultivate such considerable tracts of the country as to disrupt its natural equilibrium. It is very likely that the increase of population and the cattle-pressure following the Tutsi arrival has been a determining factor in this process.

The Tutsi immigration into the country is an historical fact attested by the traditions of Ruanda and of neighbouring peoples. Their occupation of Ruanda is an episode of the great southbound pastoral migration which resulted in the formation of the different societies which Baumann terms *Circle of the Lakes*,[7] Schapera, the *Lacustrine Bantu*,[8] and Meinhard, the *Interlacustrine Province*.[9] Pastoral peoples who according to Seligman's classification were 'half Hamites' (probably of eastern Hamitic origin),[10] for an unknown reason migrated with their large herds of long-horned cattle into an area delimited in the west by the Central African rift valley from Lake Tanganyika to Lake Albert, in the north and east by Lakes Kyoga and Victoria, and in the south by a line running westwards from Muanza Bay (Lake Victoria) to the Malagarasi River. Incorporating the Bantu agriculturists previously settled in that area, they constituted a number of political units (such as Nyoro, Toro, Nkole, Ganda, Sogo, Mpororo,

[7] Baumann and Westermann, 1948, pp. 215-23. [8] Schapera, 1929, p. 83.
[9] Meinhard, 1947a and b. See also Roscoe, 1924.
[10] Cf. Seligman, 1930, p. 97, pp. 157 ff.

9:Maquet E-5 (1949-1951)1961 FO42 Rundi FO42

Ruanda, Burundi, Ha, Karagwe). It is not known where these pastoralists came from.

Because of cultural and physical similarities the Galla or Somali country of Southern Abyssinia has been advanced as their possible place of origin. As the invaders have completely adopted the Bantu language of the agriculturists, the lack of linguistic clues so important in such questions is a great setback to any historical reconstruction. It should be noted in this connexion that the use of the linguistic term 'Hamites' to denote Tutsi, who do not speak a Hamitic language at all, is unfortunate and misleading. Dr. Meinhard's suggestion of using a term not burdened with linguistic connotations such as 'Ethiopians' or 'Ethiopoids' should be considered.[11] The population movement which brought the invaders to Ruanda is probably at least four centuries old. The present ruler is traditionally the fortieth king of Ruanda. We know the names of thirty-nine predecessors, but it is possible that the list is incomplete. On the other hand it seems that the first nineteen are legendary figures. Taking account of this and assuming that a reign lasts about twenty years, we go back to the sixteenth century.[12]

As the Tutsi migration seems to have been gradual and peaceful, an infiltration rather than a conquest, it is probable that at the beginning their cattle grazed on the unoccupied grasslands. But the population increased as more Tutsi kept on entering the country and more land had to be tilled to feed them. Cattle were also increasing and the Hutu had to move from the most fertile soil, in the bottom of valleys, because during the dry season these places were the only ones where cattle could find fresh grass. This process must have been in operation for a few centuries to produce the situation as we know it now.

Statistics are not available for the 1900–10 period, with which this study is concerned, but we may from the present figures (with some modifications) get a fairly good idea of the situation at the beginning of this century. The population was estimated on 31 December 1949, to be 1,870,410 souls: in 1956, 2,374,136, which

[11] Cf. Meinhard, 1947a, p. 3.

[12] According to Meyer, 1913, the pastoral invasion took place in two ways. The first, at the beginning of this millenium reached the north-east of the Province; the second, in the fifteenth and sixteenth centuries brought them farther southward. According to Kagame and Delmas, the first Hamitic populations invaded the country in the eleventh and twelfth centuries. (Gouvernement du Ruanda-Urundi), (1956), p. 9.